

**BEFORE THE CALIFORNIA PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Proposed Policies  
Governing Restructuring California's  
Electric Services Industry and  
Reforming Regulation.

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**R.94-04-031**

Order Instituting Investigation on  
the Commission's Proposed Policies  
Governing Restructuring California's  
Electric Services Industry and  
Reforming Regulation.

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**I.94-04-032**

**RESPONSE OF THE CALIFORNIA ENERGY COMMISSION TO  
JOINT PETITIONERS' REQUEST FOR RULEMAKING ON  
STANDARDS OF CONDUCT FOR MARKETING AFFILIATES**

January 7, 1997

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JOINT PETITIONERS' REQUEST FOR RULEMAKING ON  
STANDARDS OF CONDUCT FOR MARKETING AFFILIATES**

Pursuant to Administrative Law Judge Wong's December 9, 1996 ruling, the California Energy Commission (CEC) submits its response to Petition for Order Instituting Rulemaking on Standards of Conduct for Marketing Affiliates (Petition) filed by Enron Capital & Trade Resources Corporation and various joint petitioners (Joint Petitioners).

The CEC has consistently acknowledged the need for rules governing the conduct of public utilities and their related competitive affiliates before the California Public Utilities Commission (CPUC). See e.g., Comments of the California Energy Commission on the August 30, 1996 Report to the CPUC by the Direct Access Working Group (September 30, 1996) at pages 40-41 in R.94-04-031/I.94-04-032. The CEC has also recognized the need for market rules applicable to all competitive energy services providers beyond those enacted by AB 1890, such as expanded registration requirements and CPUC authority to sanction a provider for misconduct. See *Id.* at pages 34-46. We stress that market rules for competitive providers be developed in ways that level the playing field.

In prior comments, the CEC has recommended that market rules, including utility-affiliate rules and generic market rules, be developed by a stakeholder working group. See *Id.* at 36. By the term "rules" the CEC does not refer solely to regulations, but also to voluntary industry guidelines, and other forms of self-regulation. The CEC continues to advocate use of stakeholder working groups to develop draft rules. Any further working group activity to develop market rules, however, requires guidance from the CPUC. The Petition presents the CPUC with the opportunity to provide the necessary guidance on the issues it is most concerned with in the form of a ruling in response to the Petition. Stakeholders can then proceed to form working groups to draft proposed rules. Then, the CPUC may consider initiating an OII or OIR.

The CEC acknowledges that although CPUC jurisdiction over public utilities is clear, there is less certainty regarding CPUC jurisdiction over competitive energy services providers. The term "competitive energy services providers" includes affiliates of California utilities as well as energy services providers who are not affiliated with California utilities. It also includes providers of energy-related services who may not sell energy. It is appropriate for the CPUC to investigate the breadth of its jurisdiction, ultimately adopting reasonable rules regulating entities over which it has jurisdiction. Where CPUC jurisdiction is doubtful, draft rules that result from the working group could form the basis of a legislative proposal.

Accordingly, the CEC urges the CPUC to issue a ruling providing guidance concerning reasonable market rules and the scope of CPUC jurisdiction. Stakeholders should then work collaboratively to develop proposed market rules.

January 7, 1997

Respectfully submitted,

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